

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

vs.

5:01-CR-258-001

HENRY NELSON SANTOS-PRADO

Defendant.

APPEARANCES

OF COUNSEL

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Edward R. Broton, AUSA

Hon. Norman A. Mordue, Chief U.S. District Judge

MEMORANDUM DECISION AND ORDER

Presently pending before the Court is a Motion for Reconsideration of the April 14, 2008 Order (Dkt. No. 520), filed by *Pro Se* defendant Henry Nelson Santos-Prado. On March 21, 2008, a Motion for Retroactive Application of Sentencing Guidelines to Crack Cocaine Offense 18 USC 3582 was filed by Lisa Peebles, Esq., on behalf of Henry Nelson Santos-Prado. On April 14, 2008, the Motion was granted reducing the defendant's sentence from 360 months to 292 months. (Dkt. No. 518).

The Motion for Reconsideration is requesting that the Court revisit the leadership role and

a points enhancement level under U.S.S. G. § 2D1.1(b)(1). The defendant appealed his original sentence to the Second Circuit Court of Appeals on November 26, 2002, for the same arguments. On October 31, 2003, A Mandate was issued (Dkt. No. 486) and the Second Circuit Affirmed the Judgment of this Court.

This Court reviewed the original judgment, the plea agreement, and the original Presentence Investigation Report. In addition, the Court has reviewed both *Booker* and *Crosby*, and has considered all the sentencing factors listed in 18 U.S.C. § 3553(a), with the understanding that the United States Sentencing Guidelines are now advisory. After considering the foregoing, the Court has determined that the sentence of 292 months imprisonment followed by five years of supervised release is a reasonable one. The Court therefore declines to modify or change the amended sentence imposed on defendant.

Therefore, the Court affirmatively states that the amended sentence imposed on Henry Nelson Santos-Prado in this case on April 14, 2008, would still be imposed on him even after considering the principles enunciated in *Booker* and *Crosby*.

Accordingly it is hereby

ORDERED that motion for reconsideration (Dkt. No. 520) is **DENIED**; and it is further

ORDERED that the Clerk of the Court shall serve copies of this order by regular or electronic mail on the parties to this action.

IT IS SO ORDERED.

DATED: June 19, 2008


Norman A. Mordue
Chief United States District Court Judge